

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

REGINALD DINO GILMORE,

Petitioner

VS.

Warden HUGH T. SMITH,

Respondent

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NO. 5:06-cv-200 (CAR)

**ORDER**

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Before the Court is petitioner **REGINALD DINO GILMORE'S** notice of appeal (Tab # 26) from the Court's March 23, 2007, order, which adopted Magistrate Judge Claude W. Hicks's recommendation that petitioner's 28 U.S.C. § 2254 motion be denied.

The Eleventh Circuit Court of Appeals has mandated that the Court construe petitioner's notice of appeal as an application for a certificate of appealability ("COA") pursuant to 28 U.S.C. § 2253(c). *Edwards v. United States*, 114 F.3d 1083 (11th Cir. 1997). Under section 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in Magistrate Judge Hicks's recommendation and this Court's order accepting the same, the Court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

Also before the Court is petitioner's motion for leave to proceed *in forma pauperis* on appeal (Tab # 28). Said motion is **DENIED AS MOOT**.

**SO ORDERED**, this 25th day of June, 2007.

S/ C. Ashley Royal

C. ASHLEY ROYAL

UNITED STATES DISTRICT JUDGE

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